

(3) National Security Telecommunications and Information Systems Security Policy No. 11;

(4) Federal Information Processing Standards;

(5) DoD Directive 8500.1, Information Assurance;

(6) DoD Instruction 8500.2, Information Assurance Implementation;

(7) DoD Directive 8570.01, Information Assurance Training, Certification, and Workforce Management; and

(8) DoD Manual 8570.01-M, Information Assurance Workforce Improvement Program.

(b) For all acquisitions, the requiring activity is responsible for providing to the contracting officer—

(1) Statements of work, specifications, or statements of objectives that meet information assurance requirements as specified in paragraph (a) of this subsection;

(2) Inspection and acceptance contract requirements; and

(3) A determination as to whether the information technology requires protection against compromising emanations.

[69 FR 35534, June 25, 2004, as amended at 73 FR 1829, Jan. 10, 2008; 75 FR 34946, June 21, 2010]

239.7102-2 Compromising emanations—TEMPEST or other standard.

For acquisitions requiring information assurance against compromising emanations, the requiring activity is responsible for providing to the contracting officer—

(a) The required protections, *i.e.*, an established National TEMPEST standard (*e.g.*, NACSEM 5100, NACSIM 5100A) or a standard used by other authority;

(b) The required identification markings to include markings for TEMPEST or other standard, certified equipment (especially if to be reused);

(c) Inspection and acceptance requirements addressing the validation of compliance with TEMPEST or other standards; and

(d) A date through which the accreditation is considered current for purposes of the proposed contract.

239.7102-3 Information assurance contractor training and certification.

(a) For acquisitions that include information assurance functional services for DoD information systems, or that require any appropriately cleared contractor personnel to access a DoD information system to perform contract duties, the requiring activity is responsible for providing to the contracting officer—(1) A list of information assurance functional responsibilities for DoD information systems by category (*e.g.*, technical or management) and level (*e.g.*, computing environment, network environment, or enclave); and

(2) The information assurance training, certification, certification maintenance, and continuing education or sustainment training required for the information assurance functional responsibilities.

(b) After contract award, the requiring activity is responsible for ensuring that the certifications and certification status of all contractor personnel performing information assurance functions as described in DoD 8570.01-M, Information Assurance Workforce Improvement Program, are in compliance with the manual and are identified, documented, and tracked.

(c) The responsibilities specified in paragraphs (a) and (b) of this section apply to all DoD information assurance duties supported by a contractor, whether performed full-time or part-time as additional or embedded duties, and when using a DoD contract, or a contract or agreement administered by another agency (*e.g.*, under an inter-agency agreement).

(d) See PGI 239.7102-3 for guidance on documenting and tracking certification status of contractor personnel, and for additional information regarding the requirements of DoD 8570.01-M.

[73 FR 1829, Jan. 10, 2008]

239.7103 Contract clauses.

(a) Use the clause at 252.239-7000, Protection Against Compromising Emanations, in solicitations and contracts involving information technology that requires protection against compromising emanations.

(b) Use the clause at 252.239-7001, Information Assurance Contractor Training and Certification, in solicitations and contracts involving contractor performance of information assurance functions as described in DoD 8570.01-M.

[73 FR 1829, Jan. 10, 2008]

Subpart 239.72—Standards

239.7201 Solicitation requirements.

Contracting officers shall ensure that all applicable Federal Information Processing Standards are incorporated into solicitations.

[71 FR 39011, July 11, 2006]

Subpart 239.73 [Reserved]

Subpart 239.74— Telecommunications Services

239.7400 Scope.

This subpart prescribes policy and procedures for acquisition of telecommunications services and maintenance of telecommunications security. Telecommunications services meet the definition of information technology.

[62 FR 1060, Jan. 8, 1997, as amended at 71 FR 39011, July 11, 2006]

239.7401 Definitions.

As used in this subpart—

(a) *Common carrier* means any entity engaged in the business of providing telecommunications services which are regulated by the Federal Communications Commission or other governmental body.

(b) *Foreign carrier* means any person, partnership, association, joint-stock company, trust, governmental body, or corporation not subject to regulation by a U.S. governmental regulatory body and not doing business as a citizen of the United States, providing telecommunications services outside the territorial limits of the United States.

(c) *Governmental regulatory body* means the Federal Communications Commission, any statewide regulatory body, or any body with less than statewide jurisdiction when operating under the State authority. The following are

not “governmental regulatory bodies”—

(1) Regulatory bodies whose decisions are not subject to judicial appeal; and

(2) Regulatory bodies which regulate a company owned by the same entity which creates the regulatory body.

(d) *Noncommon carrier* means any entity other than a common carrier offering telecommunications facilities, services, or equipment for lease.

(e) *Securing, sensitive information, and telecommunications systems* have the meaning given in the clause at 252.239-7016, Telecommunications Security Equipment, Devices, Techniques, and Services.

(f) *Telecommunications* means the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, or any other electronic, electric, electromagnetic, or acoustically coupled means.

(g) *Telecommunications services* means the services acquired, whether by lease or contract, to meet the Government’s telecommunications needs. The term includes the telecommunications facilities and equipment necessary to provide such services.

[56 FR 36429, July 31, 1991, as amended at 70 FR 67918, Nov. 9, 2005]

239.7402 Policy.

(a) *Acquisition*. DoD policy is to acquire telecommunications services from common and noncommon telecommunications carriers—

(1) On a competitive basis, except when acquisition using other than full and open competition is justified;

(2) Recognizing the regulations, practices, and decisions of the Federal Communications Commission (FCC) and other governmental regulatory bodies on rates, cost principles, and accounting practices; and

(3) Making provision in telecommunications services contracts for adoption of—

(i) FCC approved practices; or

(ii) The generally accepted practices of the industry on those issues concerning common carrier services where—

(A) The governmental regulatory body has not expressed itself;